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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/553,452 04/19/00 KOCH E P3094

ROCKEY MILNAMOW & KATZ LTD
TWO PRUDENTIAL PLAZA
47TH FLOOR
CHICAGO IL 60601

PM82/1012

EXAMINER

MARKOVICH, K

ART UNIT

PAPER NUMBER

3671

DATE MAILED:

10/12/00

2

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Handwritten marks: a checkmark and a large 'X'.

Office Action Summary

Application No.

09/553,452

Applicant(s)

Koch

Examiner

Kristine Markovich

Group Art Unit

3671



☒ Responsive to communication(s) filed on Apr 19, 2000

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1035 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claim

☒ Claim(s) 1-23 is/are pending in the application

Of the above, claim(s) _____ is/are withdrawn from consideration

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-23 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☒ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

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Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The preamble recites "a temporary ramp" with the roadway recited merely as an intended use. However, the body of the claim contains positive recitations of the roadway. Consequently, it cannot be determined whether applicant intends to claim the subcombination of the temporary ramp or the temporary ramp in combination with the roadway.

In formulating a rejection on the merits, the examiner is considering that the claims are drawn to the combination and the claims will be rejected accordingly. If applicant indicates by amendment that the combination claim is the intention, the language in the preamble should be made consistent with the language in the body of the claims. If the intent is to claim the subcombination, then the body of the claims must be amended to remove positive recitation of the combination. Applicant's intentions in the regard must be clearly established by the claim language.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-7, 9 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Herman et al. (US Patent 5,777,266).

Herman et al. discloses a temporary ramp for use on roadways (column 1, lines 15-16) having an elevated obstruction (figure 5). The ramp has adjacent ramp segments (10 adjacent 10, figure 5) with lower surfaces contacting the road and upper inclined surfaces (figure 1). Adjacent edge portions are removably coupled with male/female mating shapes which extend substantially the entire vertical height of the edge portions of the ramp segments (20, 56, figure 1; column 1, lines 58-59). The ramp is made of a rigid elastomeric material (column 1, lines 44-45). The means of use is not considered in this rejection since the claim is an apparatus claim.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 8, 11, and 13-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herman et al. in view of McGinnis (US Patent 4,808,025).

Herman et al. discloses the claimed device except for a metal core, in the form of a fastener. McGinnis discloses that it is known in the art to provide a metal core in the form of a

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fastener (24, figure 4) in order to anchor the device and keep it from moving out of place once set. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the ramp of Herman et al. with the metal core/fastener of McGinnis, in order to anchor the device and keep it from moving out of place once set.

7. Claims 12, 21, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herman et al. in view of Poe (US Patent 3,936,898).

Herman et al. discloses the claimed device except for a hinge mechanism. Poe discloses that it is known in the art to provide a hinge mechanism (15, figure 2) to allow a ramp to be portable. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the ramp of Herman et al. with the hinge mechanism of Poe, in order to make the ramp a portable device.

8. Claims 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Herman et al. in view of Poe as applied to claim 12 above, and further in view of McGinnis.

The combination of paragraph 7 above discloses the claimed device except for a fastener. McGinnis discloses that it is known in the art to provide a fastener (24, figure 4) in order to anchor the device. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the ramp of the combination of paragraph 7 above with the fastener of McGinnis, in order to anchor the device.

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9. Claims 20 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herman et al. in view of McGinnis as applied to claims 16 and 17 above, and further in view of Poe.

The combination of paragraph 6 above discloses the claimed device except for a hinge mechanism. Poe discloses that it is known in the art to provide a hinge mechanism (15, figure 2) to allow a ramp to be portable. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the ramp of the combination of paragraph 6 above with the hinge mechanism of Poe, in order to make the ramp a portable device.

10. Claims 1-7, 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shaftner (US Patent 5,308,188) in view of Herman et al.

Shaftner discloses a temporary ramp for use on roadways having an elevated obstruction (figure 1). The ramp has a lower surface contacting the roadway and an upper inclined surface (figure 2). The ramp is made of an elastomeric material (column 2, lines 2-3 and column 3, lines 54-63).

Shaftner discloses the claimed device except for sectioning the device with male/female mating shapes. Herman et al. discloses that it is known in the art to provide the device with sections and mating shapes in order to make the device portable for temporary use. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the ramp of Shaftner with the sections of Herman et al., in order to make the device portable for temporary use.

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11. Claims 8, 11, and 13-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shaftner in view of Herman et al. as applied to claim 1 above, and further in view of McGinnis.

The combination of paragraph 10 above discloses the claimed device except for a metal core, in the form of a fastener. McGinnis discloses that it is known in the art to provide a metal core in the form of a fastener (24, figure 4) in order to anchor the device and keep it from moving out of place once set. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the combination of paragraph 10 above with the metal core/fastener of McGinnis, in order to anchor the device and keep it from moving out of place once set.

12. Claims 12, 21, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shaftner in view of Herman et al. as applied to claims 1, 5, and 7 above, and further in view of Poe.

The combination of paragraph 10 above discloses the claimed device except for a hinge mechanism. Poe discloses that it is known in the art to provide a hinge mechanism (15, figure 2) to allow a ramp to be portable. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the combination of paragraph 10 above with the hinge mechanism of Poe, in order to make the ramp a portable device.

13. Claims 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shaftner in view of Herman et al. and Poe as applied to claim 12 above, and further in view of McGinnis.

The combination of paragraph 12 above discloses the claimed device except for a fastener. McGinnis discloses that it is known in the art to provide a fastener (24, figure 4) in

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order to anchor the device. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the ramp of the combination of paragraph 12 above with the fastener of McGinnis, in order to anchor the device.

14. Claims 20 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shaftner in view of Herman et al. and McGinnis as applied to claims 16 and 17 above, and further in view of Poe.

The combination of paragraph 11 above discloses the claimed device except for a hinge mechanism. Poe discloses that it is known in the art to provide a hinge mechanism (15, figure 2) to allow a ramp to be portable. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the ramp of the combination of paragraph 11 above with the hinge mechanism of Poe, in order to make the ramp a portable device.

Conclusion

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kristine M. Markovich whose telephone number is (703) 305-1676. The examiner can normally be reached on Mon-Fri from 8:00 am to 5:30 pm.

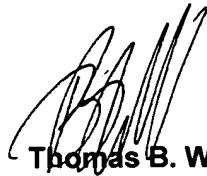
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached on (703) 308-3780. The fax phone number for this Group is (703)305-3597.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-1113.



Thomas B. Will
Supervisory Patent Examiner
Group 3600



KMM

October 1, 2000